

Exhibit 2

DANIEL N. BALLARD, ESQ. (CSB #219223) (*Pro hac vice*)
MICHAEL S. WILCOX, ESQ. (CSB #215269) (*Pro hac vice*)
McDONOUGH HOLLAND & ALLEN PC
Attorneys at Law
555 Capitol Mall, 9th Floor
Sacramento, CA 95814
Phone: 916.444.3900
Fax: 916.444.3249

ADAM B. PRICE, ESQ. (USB # 7769)
JONES WALDO HOLBROOK & McDONOUGH
Attorneys at Law
170 So. Main Street, Suite 1500
Salt Lake City, UT 84104-1644
Phone: 801.521.3200
Fax: 801.328.0537

Attorneys for Defendant and
Counterclaimant Battens Plus, Inc.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

DIVERSI-PLAST PRODUCTS, INC., a)
Minnesota Corporation,

Plaintiff,

v.

BATTENS PLUS, INC., a California
Corporation,

Defendant.

BATTENS PLUS, INC., a California
Corporation,

Counterclaimant,

v.

DIVERSI-PLAST PRODUCTS, INC., a
Minnesota Corporation,

Counter-Defendant.

) Case No. 2:04CV01005 PGC

) BATTENS PLUS, INC.'S RESPONSES
TO PLAINTIFF'S REQUESTS FOR
ADMISSIONS

EXHIBIT

2

REQUEST FOR ADMISSION NO. 1:

Admit that you were aware of the '193 Patent prior to commencement of the present parent infringement action.

RESPONSE TO REQUEST FOR ADMISSION NO. 1:

Admitted.

REQUEST FOR ADMISSION NO. 2:

Admit that you were aware of the '193 Patent on or before August 2002.

RESPONSE TO REQUEST FOR ADMISSION NO. 2:

Admitted.

REQUEST FOR ADMISSION NO. 3:

Admit that you continued making, selling, offering for sale or importing into the United States, Accused Products after commencement of the present patent infringement action.

RESPONSE TO REQUEST FOR ADMISSION NO. 3:

Battens Plus admits it has continued making, offering for sale, and selling its BattenUp batten after commencement of the present patent infringement action.

REQUEST FOR ADMISSION NO. 4:

Admit that you continued making, selling offering for sale, or importing into the United States Accused Products after learning of the '193 Patent.

RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Battens Plus admits it has continued making, offering for sale, and selling its BattenUp batten after learning of the '193 Patent.

REQUEST FOR ADMISSION NO. 5:

Admit that you did not receive an oral opinion of counsel regarding noninfringement of the '193 Patent as a defense to willful infringement of the '193 Patent.

RESPONSE TO REQUEST FOR ADMISSION NO. 5:

Denied.

REQUEST FOR ADMISSION NO. 6:

Admit that you did not receive a written opinion of counsel regarding noninfringement of the '193 Patent as a defense to willful infringement of the '193 Patent.

RESPONSE TO REQUEST FOR ADMISSION NO. 6:

Battens Plus objects that this request for admission seeks information protected by the attorney client privilege and/or attorney work-product doctrine. For this reason, Battens Plus will not admit or deny this request.

REQUEST FOR ADMISSION NO. 7:

Admit that you will not rely upon an oral opinion of counsel regarding noninfringement of the '193 Patent as a defense to willful infringement of the '193 Patent.

RESPONSE TO REQUEST FOR ADMISSION NO. 7:

Denied.

REQUEST FOR ADMISSION NO. 8:

Admit that you will not rely upon a written opinion of counsel regarding noninfringement of the '193 Patent as a defense to willful infringement of the '193 Patent.

RESPONSE TO REQUEST FOR ADMISSION NO. 8:

Battens Plus objects that this request for admission seeks information protected by the attorney client privilege and/or attorney work-product doctrine. For this reason, Battens Plus will not admit or deny this request. Battens Plus further objects that this request is premature.

REQUEST FOR ADMISSION NO. 9:

Admit that you did not receive an oral opinion of counsel regarding invalidity of the '193 Patent as a defense to willful infringement of the '193 Patent.

RESPONSE TO REQUEST FOR ADMISSION NO. 9:

Battens Plus objects that this request for admission seeks information protected by the attorney client privilege and/or attorney work-product doctrine. For this reason, Battens Plus will not admit or deny this request.

REQUEST FOR ADMISSION NO. 10:

Admit that you did not receive a written opinion of counsel regarding invalidity of the '193 Patent as a defense to willful infringement of the '193 Patent.

RESPONSE TO REQUEST FOR ADMISSION NO. 10:

Battens Plus objects that this request for admission seeks information protected by the attorney client privilege and/or attorney work-product doctrine. For this reason, Battens Plus will not admit or deny this request.

REQUEST FOR ADMISSION NO. 11:

Admit that you will not rely upon an oral opinion of counsel regarding invalidity of the '193 Patent as a defense to willful infringement of the '193 Patent.

RESPONSE TO REQUEST FOR ADMISSION NO. 11:

Battens Plus objects that this request for admission seeks information protected by the attorney client privilege and/or attorney work-product doctrine. For this reason, Battens Plus will not admit or deny this request. Battens Plus further objects that this request is premature.

REQUEST FOR ADMISSION NO. 12:

Admit that you will not rely upon a written opinion of counsel regarding invalidity of the '193 Patent as a defense to of willful infringement of the '193 Patent.

RESPONSE TO REQUEST FOR ADMISSION NO. 12:

Battens Plus objects that this request for admission seeks information protected by the attorney client privilege and/or attorney work-product doctrine. For this reason, Battens Plus will not admit or deny this request. Battens Plus further objects that this request is premature.

REQUEST FOR ADMISSION NO. 13:

Admit that you do not have any opinion of counsel relating to the '193 Patent that you intend to rely upon for a defense or claim in the present patent infringement action.

RESPONSE TO REQUEST FOR ADMISSION NO. 13:

Denied.

REQUEST FOR ADMISSION NO. 14:

Admit that the BattenUp product is the only product you sell or offer for sale.

RESPONSE TO REQUEST FOR ADMISSION NO. 14:

Admitted.

REQUEST FOR ADMISSION NO. 15:

Admit that Inteplast Group, Ltd., or its agents, employees, representatives or related companies, is the only manufacturer of your BattenUp product.

RESPONSE TO REQUEST FOR ADMISSION NO. 15:

Admitted.

REQUEST FOR ADMISSION NO. 16:

Admit that Inteplast Group, Ltd., or its agents, employees, representatives or related companies, continues to manufacture your BattenUp product.

RESPONSE TO REQUEST FOR ADMISSION NO. 16:

Admitted.

REQUEST FOR ADMISSION NO. 17:

Admit that you have notified Inteplast Group, Ltd., or its agents, employees, representatives or related companies, that your BattenUp product is accused of infringing the '193 Patent in the present patent infringement action.

RESPONSE TO REQUEST FOR ADMISSION NO. 17:

Admitted.

REQUEST FOR ADMISSION NO. 18:

Admit that you have not entered into an agreement, written or oral, with Inteplast Group, Ltd., or its agents, employees, representatives or related companies, to indemnify or otherwise hold you harmless for damages, liabilities or claims resulting from sales of the BattenUp product.

RESPONSE TO REQUEST FOR ADMISSION NO. 18:

Admitted.

REQUEST FOR ADMISSION NO. 19:

Admit that you have not entered into an agreement, written or oral, with Inteplast Group, Ltd., or its agents, employees, representatives or related companies, to indemnify or otherwise hold Inteplast Group, Ltd., or its agents, employees, representatives or related companies, harmless for damages, liabilities or claims resulting from the manufacture of the BattenUp product.

RESPONSE TO REQUEST FOR ADMISSION NO. 19:

Admitted.

REQUEST FOR ADMISSION NO. 20:

Admit that you have not changed the BattenUp product design since commencement of the present patent infringement action.

RESPONSE TO REQUEST FOR ADMISSION NO. 20:

Admitted.

REQUEST FOR ADMISSION NO. 21:

Admit that you and the Plaintiff are the only companies in the United States you are aware of that sell plastic roof battens that facilitate ventilation and/or water run-off.

RESPONSE TO REQUEST FOR ADMISSION NO. 21:

Admitted.

DATED: November 14, 2005

McDONOUGH HOLLAND & ALLEN PC
Attorneys at Law

By: 

MICHAEL S. WILCOX
Attorneys for Defendant and Counterclaimant
Battens Plus, Inc.

867358v2 34873/0007